

REMARKS

Favorable reconsideration and allowance of the present application is respectfully requested.

Currently, claims 27-41 are pending in the present application. Claims 1-16 are cancelled. Claims 17-26 were previously withdrawn. By way of example, independent claim 27 provides for an absorbent article comprising a cover layer. The cover layer comprises a user contacting surface and a non-contacting surface, wherein the cover layer has indicia formed thereon. The cover layer defines one or more apertures having an opening that tapers in a direction extending away from the user contacting surface towards the non-contacting surface. The article includes a bottom layer and an absorbent layer disposed between the cover layer and the bottom layer.

35 U.S.C. § 103(a) Rejections

Claims 27-41 were rejected under 35 U.S.C. § 103(a) as being un-patentable over U.S. Patent No. 5,431,643 to Quellette et al. in view of U.S. Patent No. 4,846,813 to Raley. The Office Action asserts that "it would have been obvious to modify the apertures of Quellette to provide apertures with tapered openings because apertures with tapered openings will allow for more effective acceptance and retention of liquids as taught by Raley in the abstract." Office Action at 3. Applicants respectfully traverse the rejection of claims 27-41 for the reasons the follow.

First, The abstract of Raley simply does not teach that tapered openings allow for "more effective acceptance and retention of liquids." Raley uses a topsheet of fluid impervious material having a plurality of tapered passages. The apertures allow for the flow of fluid from the otherwise fluid impervious topsheet to the absorbent web.

Expansion of the web then seals off the apertures. More specifically, the apertures do not improve "acceptance" of any other component nor "retain" and any liquid.

Second, even assuming Raley taught "more effective acceptance and retention of liquids", such would provide no motivation or suggestion to modify Quellette et al. because Quellette et al. already uses a fluid pervious topsheet. As such, Quellette et al. does not need apertures to pass the fluid to the absorbent core or to increase "acceptance and retention." More specifically, even assuming Raley provides "more effective acceptance and retention of liquids", such a modification would be unnecessary and of no consequence for Quellette et al. because of its fluid pervious topsheet. There simply is no motivation or suggestion to modify Quellette et al. as set forth in the Office Action because such a problem with Quellette et al. does not exist. As such, the Office Action improperly relies only upon the hindsight teachings of the present application to make this modification. Applicants respectfully submit the rejection is, therefore, improper and should be withdrawn.

Applicants also assert that, for at least the same reasons, dependent claims 28-41 also patentably define over the cited reference. The patentability of the dependent claims, however, certainly does not hinge on the patentability of independent claim 27. In particular, some or all of the dependent claims may possess features that are independently patentable, regardless of the patentability of claim 27. By way of example only, claim 28 also requires that the indicia are formed upon the non-contacting surface of the cover layer, a limitation Applicants respectfully submit is not indicated by Quellette et al. By way of further example, claim 33 requires

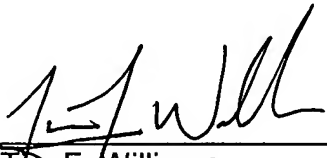
that the indicia comprises a color that contrasts with the cover layer so as to make the indicia visually apparent to a user of the absorbent article. The specification of the present application describes embodiments where the indicia are printed with "maximum contrast" to "enhance readability for the end user." In stark contrast, Quellette et al. indicates pigmenting its fluid impervious areas 36 so that such areas "exhibit minimal or no visual contrast" with the surrounding material. Col. 5, lines 29-36.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Kidwell is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this response.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully requested,

DORITY & MANNING, P.A.



Tim F. Williams
Registration No. 47,178

DORITY & MANNING, P.A.
P. O. Box 1449
Greenville, SC 29602-1449
Phone: (864) 271-1592
Facsimile: (864) 233-7342

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